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J. Phillips

State of New Hampshire
OFFICE OF ATTORNEY-GENERAL

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CONCORD, N.H.

Winfield J. Phillips, Commissioner
Bank Commission
State House
Concord, New Hampshire

Dear Mr. Phillips:

This is in reply to your letter of January 21, 1958, addressed to William J. Deachman, Assistant Attorney General, in which you request the opinion of this office as to whether state-chartered banks may issue certificates of deposit or savings certificates and pay a different rate of interest than that paid on regular savings deposits.

We find nothing in the statutory or case law of The State of New Hampshire expressly prohibiting the issuance of such certificate. Nor do we find any provision which requires that interest paid on different types of deposits be at a uniform rate.

In 7 Am.Jur., Banks, section 494, the following language appears:

"The authority of banks to issue certificates of deposit is a matter concerning which there is little doubt, except as powers in this regard may be limited by the express terms of or by necessary implication from the controlling banking laws."

It has been held that in the absence of a statute prohibiting the issuance of time certificates, savings banks have implied power to issue certificates of time deposits even though the statute did not make express provision therefor. See 9 C.J.S., Banks and Banking, section 991, Murray v. First Trust & Savings Bank, 201 Iowa 1325, 207 NW 781.

It is thus our opinion that a savings bank or the savings department of a trust company established under the laws of this State may issue certificates of deposit and pay a different rate of interest than that paid on regular savings deposits. It would seem, how-

C O P Y

Winfield J. Phillips, Commissioner

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ever, that interest on such deposits would be subject to the provisions of RSA 386:10, which limits interest dividends to $3\frac{1}{4}$ per cent per annum unless the total value of assets exceeds the amount due depositors by at least 5 per cent.

Very truly yours,

George T. Ray
Assistant Attorney General

GTR/lit